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10/720,288	11/25/2003	Hayami Nakagawa	0649-0930P	4751

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EXAMINER

GORDON, STEPHEN T

ART UNIT PAPER NUMBER

3612

DATE MAILED: 07/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/720,288

Applicant(s)

NAKAGAWA, HAYAMI

Examiner

Stephen Gordon

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 10 April 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) 5 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8 and 9 is/are allowed.
- 6) ☒ Claim(s) 1-4, 6, 7 and 10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 November 2003 and 07 September 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 4-10-06.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. Claim 5 is withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention. Election was made **without** traverse in the reply filed on 11-15-04.

2. The disclosure is objected to because of the following informalities:

Applicant's amendment to the paragraph on page 7 included in the latest amendment of 4-10-06 is noted and has been entered. Such amendment, however, was directed to an incorrect line. In view of such amendment, the following corrections are required.

On line 4 of page 7 (as amended by the 4-10-06 amendment), "reinforcement 124" should be replaced with –reinforcement 12—(as originally presented). On line 5 of page 7 (as amended by the 4-10-06 amendment), "wall 12" should be replaced with –wall 124--.

Appropriate correction is required.

3. Claim 1, as newly presented, is objected to because of the following informalities: line 3 is slightly awkward, and a comma could be inserted after "door" of the line to correct the claim in this regard. Appropriate correction is required.

4. Claim 4, as newly amended, is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 4 – line 14, the period in the middle of the claim is confusing and should apparently be replaced with a semicolon. In the third to last line, "the upper lateral wall" lacks antecedent basis. In the second to last line, "the upper lateral wall" lacks

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antecedent basis. In the last line, "the closed section" lacks antecedent basis. In general, the last part of the claims is very confusing, and it is not clear to what the recited upper wall and closed section elements refer.

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-3, 6-7 and 10, as newly presented, are rejected under 35 U.S.C. 102(b) as being anticipated by Rashid et al '060.

Regarding claim 1, Rashid et al teaches a vehicle door including a reinforcement 14 formed as broadly claimed, and inner panel 16 with longitudinal-direction edges and a lower edge connected to the reinforcement to form a box shaped section (e.g. see section 2, lines 7-17 especially note lines 15-17; section 4, lines 31-35; etc.), and an outer panel 12 with longitudinal-direction edges and upper and lower edges connected to the door reinforcement and/or the inner panel (e.g. see section 2, lines 21-23; section 3, lines 58-60; section 4, lines 53-60; etc.). Regarding the added language to claim 1 in the latest amendment of 4-10-06, at least the walls 46,48 and the lower wall (attached to 58) of the reinforcement define a "substantially open inner area" as newly broadly claimed. While such walls do not define an aperture in the reinforcement per se, they envelope an open inner area which reads on the claim language as newly broadly presented.

Regarding claim 2, the reinforcement is welded to the inner panel and configured as broadly claimed – see section 4, lines 31-35 etc.

Regarding claim 3, the laterally extending wall of the reinforcement attached via a small flange to the outer panel near edge 24 as seen at the top of figure 2 defines an upper lateral wall as broadly claimed and forms a closed section with the outer panel – again note the top of figure 2.

Regarding claim 6, the upper lateral wall and inner panel are spaced as broadly claimed – see figure 2.

Regarding claim 7, reading elements 32, 34, 36 on the inner panel, such panel is substantially U-shaped and upwardly open as broadly claimed.

Regarding new claim 10, at least the portion of the inner panel above element 38 defines an “uninterrupted upwardly open portion” as newly broadly claimed.

7. The failure to apply the prior art to newly amended claim 4 should not be construed as an indication of allowable subject matter. Because the claim so seriously fails to meet the requirements of 35 USC 112 – second paragraph for the reasons stated above, it is not possible to apply the prior art to the claim in deciding patentability without disregarding portions of the express wording of the claim and thus resorting to speculation and conjecture as to the particular invention defined therein. See Ex parte Lyell, 17 USPQ2d 1548, 1552.

8. Claims 8-9 are allowed.

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9. Applicant's arguments filed 4-10-06 have been fully considered but they are not persuasive.

Regarding applicant's amendments to claim 1, as noted above, at least the walls 46,48 and the lower wall (attached to 58) of the reinforcement 14 of Rashid et al. define a "substantially open inner area" as newly broadly claimed. While such walls do not define an *aperture* in the reinforcement per se, they envelope an open inner area in as much as the inside of an open topped box would define an "open inner area" as such. To this end, the reference features read on the claim language as newly *broadly* presented.

Regarding applicant's newly presented claim 10, as noted above, at least the portion of the inner panel of Rashid et al above element 38 defines an "uninterrupted upwardly open portion" as newly broadly claimed. In other words, at least the upper-most portion of the U-shaped inner panel portion includes an uninterrupted upwardly open portion and reads on language of new claim 10 as *broadly recited*.

In general, while it appears applicant's newly presented claims 1 and 10 are *beginning* to move in a direction away from the teachings of the relied upon prior art and possibly toward patentable subject matter, the claim language as currently presented *remains sufficiently broad* such that the claims are deemed anticipated by Rashid et al as detailed above.


10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Gordon whose telephone number is (571) 272-6661. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

 6-26-06  
Stephen Gordon  
Primary Examiner  
Art Unit 3612

stg